

3764

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Title: **Transverse Cavity Device and Method**  
Serial No. **09/873,699**  
Filing Date: **June 4, 2001**  
Applicant's Name: **Johnson et al.**  
Docket No.: **1842-0012**

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TECHNOLOGY CENTER R3700

TRANSMITTAL LETTER FOR  
REVOCATION AND SUBSTITUTION OF POWER OF ATTORNEY

Certificate of Mailing

I hereby certify that this correspondence is being deposited  
with the United States Postal Service with sufficient postage as  
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Commissioner of Patents  
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Commissioner of Patents and Trademarks  
Washington, D.C. 20231

on April 29, 2003  
(Date of deposit)

Sir:

Typed or printed name of person signing this certificate

Megan L. Lyall

The following documents are forwarded herewith for appropriate action by the United  
States Patent and Trademark Office:

1. Power of Attorney by Assignee/Revocation of Prior Power of Attorney;
2. Statement Under 37 CFR 3.73(b);
3. Certificate of Merger;
4. One (1) return postcard

Respectfully submitted,

*Michael D. Beck*

Michael D. Beck  
Registration No. 32,722

April 29, 2003  
Maginot, Moore & Bowman  
Bank One Center/Tower  
111 Monument Circle, Suite 3000  
Indianapolis, Indiana 46204-5115



# Delaware

PAGE 1

*The First State*

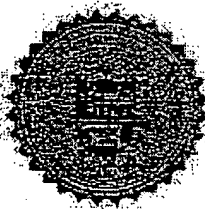
I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"VERTEX, INC.", A DELAWARE CORPORATION,

WITH AND INTO "SPINE WAVE, INC." UNDER THE NAME OF "SPINE WAVE, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE TWENTIETH DAY OF MARCH, A.D. 2002, AT 9 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE KENT COUNTY RECORDER OF DEEDS.

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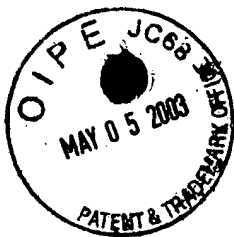
*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State

3358701 8100M

020182088

AUTHENTICATION: 1675858

DATE: 03-20-02



**CERTIFICATE OF MERGER OF**

**VERTx, INC.**  
(a Delaware Corporation)

STATE OF DELAWARE  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
FILED 09:00 AM 05/20/2003  
020182089 + 3358701

**WITH AND INTO**

**SPINE WAVE, INC.**  
(a Delaware Corporation)

**(UNDER SECTION 251 OF THE GENERAL CORPORATION LAW  
OF THE STATE OF DELAWARE)**

The undersigned corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, does hereby certify that:

1. The name and state of incorporation of each of the constituent corporations of the merger is as follows:

<u>Name</u>	<u>State of Incorporation</u>
VERTx, Inc.	Delaware
Spine Wave, Inc.	Delaware

2. An Acquisition Agreement and Plan of Merger (the "Merger Agreement") between the parties to the merger has been approved, adopted, certified, executed and acknowledged by each of the constituent corporations in accordance with the requirements of Section 251 of the General Corporation Law of the State of Delaware.

3. Spine Wave, Inc., a Delaware corporation, shall continue in existence as the surviving corporation in the merger.

4. As a result of the merger, the Certificate of Incorporation of Spine Wave, Inc. as the surviving corporation shall be its Certificate of Incorporation.

5. The executed Merger Agreement is on file at the principal place of business of surviving corporation, the address of which 12230 El Camino Real, Suite 300, San Diego, California 92130.

6. A copy of the Merger Agreement will be furnished by the surviving corporation on request and without cost, to any stockholder of either constituent corporation.

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IN WITNESS WHEREOF, Spina Wave, Inc., a Delaware corporation, has caused this Certificate to be signed by Mark LoGiudice, its President, on March 20, 2002.

SPINA WAVE, INC.  
a Delaware corporation

By [Signature]

Name Mark LoGiudice

Title President

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